

In the High Court of Punjab and Haryana at Chandigarh.

F.A.O.No.2371 of 2005.

Date of decision:17.11.2006.

Dharam Chand

...Appellant.

Versus

Yashpal Singh and others.

...Respondents.

..

Coram: Hon'ble Mr. Justice S. N.Aggarwal.

...

Present: Mr.K.S.Dadwal Advocate for the appellant.

Mr.R.K.Joshi Advocate for respondent Nos.1 and 2.

Mr.T.S.Chauhan, Additional Advocate General,Punjab
for respondent Nos.3 to 5.

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Judgment.

S. N. Aggarwal, J.

Elections for the office of Panches of Gram Panchayat of village Labbar, Tehsil Talwara, District Hoshiarpur had taken place on 29.6.2003. However, the elections for the seat reserved for B..C.category candidate were to take place on 21.12.2003. Nomination papers were to be filed on 11.12.2003. Scrutiny was to take place on 12.12.2003. Withdrawal was fixed for 13.12.2003 and the polling was to take place on 21.12.2003. Dharam Chand,appellant had filed his

nomination papers as a B.C.candidate. Yashpal Singh, respondent (brother of the appellant) had also filed nomination papers for the said seat. However, the nomination papers of the appellant were rejected by the Returning Officer on 12.12.2003. The appellant submitted the representation that he was told orally that he had failed to pay the Chula Tax. However, no written order was communicated to the appellant by the Returning Officer. As a result, Yashpal Singh, respondent No.1 was declared elected un-opposed as a Panch against B.C category.

Dharam Chand appellant along with his wife Smt. Pushpa Rani (respondent No.6) filed the Election Petition challenging the election of respondent No.1 as village Panch against B.C.category. It was contested by respondent No.1 who asserted that the appellant had failed to produce Chula Tax receipt and, therefore, his nomination papers were rightly rejected by the Returning Officer.

Issues were framed.

The appellant examined Mulkh Raj, Panchayat Secretary as PW-1. Rakesh Kumar, Returning Officer, appeared as PW-2. Kamal Lal appeared as PW-3. Jagdev Singh appeared as PW-4, Jagroop Singh as PW-5 while Dharam Chand appellant appeared as PW-6.

On the other hand, Yashpal Singh,respondent appeared as RW-1 while Kamal Lal, Junior Engineer appeared as RW-2.

On the basis of this evidence,the Election Tribunal reached the conclusion that Dharam Chand, appellant had not paid Chula Tax

receipt along with nomination papers and a sum of Rs.44/- was outstanding against the appellant as Chula Tax arrears at the time of filing of nomination papers and, therefore, his nomination papers have been rejected by the Returning Officer in accordance with law. Accordingly the election petition was dismissed by the Election Tribunal vide order dated 24.3.2005.

Hence, the present appeal.

The point to be considered in this case is as to whether the appellant was suffering from any disqualification for which his nomination papers were rejected. Section 208 of the Punjab Panchayati Raj Act, 1994 (in short PPR Act, 1994) enumerates the grounds in which a person shall be disqualified for being chosen and for being a member of a Panchayat. Section 208 (1)(i) of P.P.R Act, 1994, provides that a person shall be so disqualified if he has not paid the arrears of tax imposed by a Gram Panchayat.

The submission of learned counsel for the appellant was that the appellant had paid Chula Tax imposed by the gram panchayat and had filed the Chula Tax receipt along with his nomination papers. It was, however, removed by the Returning Officer in conspiracy with respondent Nos.1 and 2. Respondent No.1 was the contesting respondent against the appellant while respondent No.2 was the Sarpanch of the village.

It is clearly proved on the file that on 16.6.2003, Dharam Chand had deposited a sum of Rs.25/- and a sum of Rs.44/- was

outstanding against him at that time (Annexure A-3). Even, Dharam Chand appellant while appearing as PW-6 has admitted in his cross-examination that he had deposited a sum of Rs.25/- in June,2003 but in December,2003 he had not enquired about the arrears of Chula Tax outstanding against him nor he had deposited any Chula Tax in December,2003 before the elections. It clearly means, therefore, that the amount of Rs.44/- which was outstanding against Dharam Chand appellant in June,2003 was not paid by him before filing the nomination papers which remained outstanding against him.

The next submission of learned counsel for the appellant was that Yashpal Singh,respondent was also running in arrears of Chula Tax at the time of filing of nomination papers by him and,therefore, on the same analogy as applied to the appellant, the nomination papers of Yashpal Singh, respondent were also liable to be rejected.

This submission has been considered in the context of evidence produced on the file. As per the house tax register maintained by the Gram Panchayat of village Labbar (copies of which have been produced and proved on the file as Exhibits A-1 to A-6) and the statement of Mulkh Raj, PW-1, a sum of Rs.28/- was outstanding after Yashpal Singh respondent after he had deposited a sum of Rs.25/- on 16.6.2003 for the year 2003-04 (Exhibit A-1). However, the elections for the office of Panch against B.C.category had taken place on 21.12.2003 and Yashpal Singh, respondent had deposited a sum of

Rs.35/- with the respondent Gram Panchayat on 11.12.2003 i.e. at the time of filing of nomination papers and the receipt in form-4 was attached with the nomination papers which has been proved as Exhibit R-3. Therefore, as against the amount of Rs.28/- outstanding against Yashpal Singh, respondent on 16.6.2003, he had deposited a sum of Rs.35/- on 11.12.2003 and, therefore, at the time of filing of nomination papers, no amount was outstanding against him. This receipt in favour of Yashpal Singh respondent is proved by Mulkh Raj in his statement dated 13.1.2005. Even Yashpal Singh respondent while appearing as RW-1 has deposed that he had deposited a sum of Rs.35/- before contesting the elections of the village panchayat and he had attached the receipt along with the nomination papers. Therefore, at the time of filing of nomination papers, no amount of Chula Tax was outstanding against Yashpal Singh, respondent.

Keeping in view the discussion held above, the nomination papers of Dharam Chand appellant were rightly rejected by the Returning Officer as he was running in arrears of Chula Tax which was payable by him to the Gram Panchayat and he was disqualified from contesting the elections of Panch of a Gram Panchayat under Section 208(1) (i) of the PPR Act, 1994.

There is no merit in the present appeal and the same is dismissed.

November 17,2006
Jaggi

(S. N. Aggarwal)
Judge